

1 RENE L. VALLADARES
Federal Public Defender
2 Nevada State Bar No. 11479
3 MEGAN C. HOFFMAN
Assistant Federal Public Defender
4 Nevada State Bar No. 09835
JEREMY C. BARON
5 Assistant Federal Public Defender
6 District of Columbia Bar No. 1021801
411 E. Bonneville Ave. Suite 250
7 Las Vegas, Nevada 89101
(702) 388-6577
8 (702) 388-6419 (fax)
jeremy_baron@fd.org
9

10 Attorneys for Petitioner Julius Bradford
11

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 JULIUS BRADFORD,
15
16 Petitioner,
17 vs.
18 TIMOTHY FILSON, et al.,
19 Respondents.

Case No: 2:13-cv-01784-RFB-GWF

**UNOPPOSED MOTION FOR
EXTENSION OF TIME IN WHICH TO
FILE OPPOSITION TO MOTION TO
DISMISS**

(First Request)

20
21 Petitioner Julius Bradford, by and through his attorneys of record, Assistant
22 Federal Public Defenders Megan C. Hoffman and Jeremy C. Baron, hereby moves
23 this Court for an extension of time of fourteen (14) days, from November 13, 2017, to
24 and including November 27, 2017, in which to file the opposition to the respondents'
25 motion to dismiss. This motion is based on the attached points and authorities and
26 any pleadings and papers on file herein.

POINTS AND AUTHORITIES

1
2 1. Mr. Bradford has filed a second amended petition in this case. ECF No.
3 67. The respondents have filed a partial motion to dismiss the second amended
4 petition. ECF No. 73. The current deadline for the opposition to that motion is
5 November 13, 2017. *See* ECF No. 66; Fed. R. Civ. P. 6(a)(1)(C).

6 2. Undersigned counsel have diligently reviewed the motion to dismiss
7 along with Mr. Bradford's file in an effort to prepare the opposition by the Court's
8 deadline. However, counsel respectfully suggest that additional time is necessary to
9 properly prepare Mr. Bradford's opposition to the motion to dismiss.

10 3. The partial motion to dismiss covers seven claims in Mr. Bradford's
11 amended petition. In his opposition to the motion to dismiss, Mr. Bradford
12 anticipates making a number of detailed arguments regarding each of these claims,
13 potentially including an argument that he is actually innocent within the meaning of
14 *Schlup v. Delo*, 513 U.S. 298 (1995), and arguments under *Martinez v. Ryan*, 566 U.S.
15 1 (2012). Because these potential arguments require detailed factual and legal
16 discussions, the anticipated opposition is lengthy and complex. As such, additional
17 time is necessary in order to properly prepare the opposition.

18 4. In addition to opposing the motion to dismiss, Mr. Bradford is
19 considering whether to file a motion for leave to conduct discovery and/or for an
20 evidentiary hearing. *See* ECF No. 66 (requiring that if Mr. Bradford intends to file
21 such a motion, it accompany the opposition to the motion to dismiss). Mr. Bradford
22 had not yet made a final decision about whether such a motion is necessary and, if it
23 is, the precise scope of such a motion. As such, additional time is necessary to
24 evaluate these issues.

25 5. The undersigned counsel who is taking primary drafting responsibility
26 for the opposition has had many filing obligations in recent weeks, including, among

1 others, a reply brief filed on October 31, 2017, in *Gutierrez v. State*, Case No. 16-
2 15704 (9th Cir.); an amended petition filed on November 6, 2017, in *Matlean v.*
3 *Williams*, Case No. 3:16-cv-00233-HDM-VPC (D. Nev.); an opposition to a motion to
4 dismiss filed on November 6, 2017, in *Castillo v. Baker*, Case No. 3:13-cv-00704-LRH-
5 VPC (D. Nev.), an opposition in which the client is also asserting his actual innocence
6 of first-degree murder; and a supplemental opening brief filed on November 9, 2017,
7 in *LaPena v. Grigas*, Case No. 15-16154 (9th Cir.), a 40-year-old case in which the
8 Ninth Circuit granted a certificate of appealability regarding the client's actual
9 innocence within the meaning of *Herrera v. Collins*, 506 U.S. 390, 417 (1993), and
10 that required extensive review of multiple multi-week trials, evidentiary hearings,
11 trial court and appellate court pleadings, and other documents (counsel originally
12 filed a proposed overlength brief on October 16, 2017, and filed a shortened
13 conforming brief on November 9, 2017).

14 6. In addition, the undersigned counsel who is taking primary drafting
15 responsibility for the opposition has many additional obligations in the coming weeks,
16 including, among others, an amended petition due on November 16, 2017, in *Elliot v.*
17 *Neven*, Case No. 3:11-cv-00041-MMD-VPC (D. Nev.); an application for a certificate
18 of appealability due on November 17, 2017, in *Bynoe v. Baca*, Case No. 17-17012 (9th
19 Cir.); an amended petition due on November 20, 2017, in *Burch v. Baker*, 2:17-cv-
20 00656-MMD-VCF (D. Nev.); and a reply in support of an amended petition due on
21 November 20, 2017, in *Gonzalez v. Williams*, Case No. 2:15-cv-00618-RFB-CWH (D.
22 Nev.).

23 7. Therefore, counsel seek an additional fourteen (14) days, up to and
24 including November 27, 2017, in which to file the opposition. This is undersigned
25 counsel's first request for an extension of time to file Mr. Bradford's opposition.
26 Undersigned counsel do not anticipate the need to take the entire fourteen days;

1 however, in an abundance of caution, counsel propose a deadline that postdates the
2 Thanksgiving holiday.

3 8. On November 9, 2017, counsel contacted Chief Deputy Attorney General
4 Heidi P. Stern and informed her of this request for an extension of time. As a matter
5 of professional courtesy, Ms. Stern had no objection to the request. Ms. Stern's lack
6 of objection should not be considered as a waiver of any procedural defenses or statute
7 of limitations challenges, or construed as agreeing with the accuracy of the
8 representations in this motion.

9 9. This motion is not filed for the purpose of delay, but in the interests of
10 justice, as well as in the interest of Mr. Bradford. Counsel for Mr. Bradford
11 respectfully request that this Court grant this motion and order Mr. Bradford to file
12 the opposition to the respondents' motion to dismiss no later than November 27, 2017.

1 Dated this 9th day of November, 2017.

2
3 Respectfully submitted,

4 RENE L. VALLADARES
5 Federal Public Defender

6 /s/Megan C. Hoffman

7 MEGAN C. HOFFMAN
8 Assistant Federal Public Defender

9 /s/Jeremy C. Baron

10 JEREMY C. BARON
11 Assistant Federal Public Defender

12
13
14 IT IS SO ORDERED:

15 

16 RICHARD F. BOULWARE, II
17 United States District Judge

18 DATED this 13th day of November, 2017.
19
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system and include: Heidi P. Stern.

Julius Bradford
No. 81604
Ely State Prison
PO Box 1989
Ely, NV 89301

/s/ Jessica Pillsbury
An Employee of the
Federal Public Defender